

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

DAVID McALISTER,

Petitioner,

v.

Case No. 09-CV-854
(06-CR-142)

UNITED STATES OF AMERICA,

Respondent.

ORDER

Petitioner David McAlister ("McAlister") filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2255 on September 8, 2009. After conducting an initial screen of the petition, the court concluded that McAlister's petition appeared to be time-barred and ordered him to show cause by October 7, 2009, why the petition was not untimely. McAlister later requested and was granted an extension of time to file his response. The court issued an order extending the time until December 21, 2009, and that no further extensions would be granted.

McAlister filed a response arguing that the statute of limitations on his petition should be equitably tolled because: 1) he believed that his attorney had filed an appeal from his judgment of conviction, though no appeal was ever filed; and 2) he was unable to conduct adequate legal research while in state custody. The court issued an order denying McAlister's petition on December 28, 2009. Later that same day, McAlister filed a motion to "Amend and Clarify Petitioner's Original Motion and Response to Court Order for Showing of Equitable Tolling." The motion merely re-

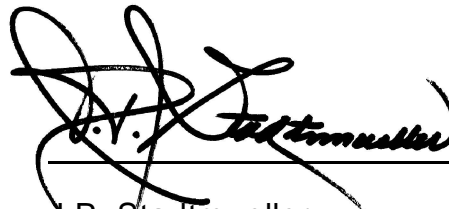
asserts the arguments McAlister made in his initial response. The court will deny the motion because it already addressed and dismissed these arguments in its December 28, 2009 order. Further, the court advised McAlister that it would not grant any additional extensions beyond the deadline of December 21, 2009.

Accordingly,

IT IS ORDERED that the petitioner's motion to amend and clarify (Docket #11) be and the same is hereby **DENIED**.

Dated at Milwaukee, Wisconsin, this 5th day of January, 2010.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'J.P. Stadtmueller', is written over a horizontal line.

J.P. Stadtmueller
U.S. District Judge